



STAFF REPORT

Agenda Item 11

Meeting Date: October 19, 2005

**LAFCO CASE
NO. & NAME**

LAFCO 05-20 Out of Area Service Agreement for El Rio Sewer Service – County of Ventura/City of Oxnard

PROPOSAL:

A request by the County of Ventura, pursuant to Government Code Section 56133, for LAFCO approval of the "Agreement for Sewer Service in El Rio Between the County of Ventura and the City of Oxnard," an out-of-agency service agreement between the County of Ventura and the City of Oxnard that provides for the City of Oxnard to accept, treat and dispose of wastewater from a County of Ventura owned sanitary sewer collection system that will serve the unincorporated areas of El Rio, Strickland Acres and properties in the vicinity of Montgomery Avenue and Lambert Street, east of Vineyard Avenue, in the City of Oxnard's sphere of influence.

SIZE:

The Agreement includes the approximately 817.57 acres proposed for County Service Area (CSA), plus area as set forth in Exhibit B to the Agreement relating to the proposed point of connection to the City of Oxnard sewer system.

LOCATION:

The areas subject to the Agreement include the unincorporated communities of El Rio, Strickland Acres, and properties in the vicinity of Montgomery Avenue and Lambert Street, east of Vineyard Avenue, in the City of Oxnard's sphere of influence.

PROPONENT:

The Ventura County Board of Supervisors.

NOTICE:

This matter has been noticed as required by law.

COMMISSIONERS AND STAFF

COUNTY:

Linda Parks, Vice Chair
Kathy Long
Alternate:
Steve Bennett

CITY:

Don Waunch
John Zaragoza
Alternate:
Janice Parvin

SPECIAL DISTRICT:

Dick Richardson, Chair
Ted Grandsen
Alternate:
George Lange

PUBLIC:

Kenneth M. Hess

Alternate:
Louis Cunningham

EXECUTIVE OFFICER:
Everett Millais

LAFCO ANALYST:
Kim Uhlich

OFFICE MANAGER/CLERK:
Debbie Schubert

LEGAL COUNSEL:
Leroy Smith

RECOMMENDATIONS:

- A. Certify that the Commission has reviewed and considered the information contained in the Mitigated Negative Declaration prepared by the County of Ventura as lead agency, dated April 3, 2001, for the El Rio Sewer System Project, and adopt the lead agency's findings and mitigation measures.
- B. Adopt the attached resolution (LAFCO 05-20) making determinations and approving the Agreement for Sewer Service in El Rio Between the County of Ventura and the City of Oxnard ("Agreement").

BACKGROUND:

The background for the Agreement is described in the "Background" section of the staff report for LAFCO 05-19 Ventura County Service Area No 34 Formation (Parcels A & B). In addition, it should be noted that during recent El Rio Municipal Advisory Council (MAC) meetings to discuss the sewer project and the pending LAFCO proposals, the MAC preliminarily endorsed the Agreement but again reiterated strong objections to any attempt to annex the area into the City. Given the community opposition to annexation, it seems probable that annexation is not a feasible alternative, at least at this time.

ANALYSIS:

A. Basis for Review

Government Code Section 56133, part of Cortese-Knox-Hertzberg, specifies that cities and districts may provide new or extended services by contract or agreement outside their jurisdictional boundaries only if the Commission approves in writing. The Commission may authorize contracts or agreements for new or extended services only if they are to be in the sphere of influence of the jurisdiction providing the service. There limited exceptions to the requirement for Commission action, none of which apply in this instance. The full text of Section 56133 is contained in Attachment 1.

B. The Agreement

In June 2005 both the County Board of Supervisors and the City Council of the City of Oxnard approved the Agreement for Sewer Service in El Rio Between the County of Ventura and the City of Oxnard (Exhibit A to the attached recommended resolution). The Agreement basically provides for the County to discharge wastewater from the proposed El Rio area sewer system into the City of Oxnard's sewer system. The Agreement also specifies certain improvements that are to be done by the County as a part of the connection to the City's wastewater system and

provides for sewer connection and other charges to be equivalent to the fees established for properties in the City (i.e. there are no surcharges being imposed because the area to be served is outside the City's boundaries).

C. Environmental Impact of the Proposal

The County of Ventura is lead agency for this proposal and LAFCO is a responsible agency under the California Environmental Quality Act (CEQA). On April 3, 2001, the County Board of Supervisors adopted a Mitigated Negative Declaration for a project that includes the installation of a sanitary sewer collection system for the El Rio area, including connecting the system to the City of Oxnard's wastewater collection, treatment and disposal system. The project description noted that service to El Rio would be provided on an extraterritorial basis by the City of Oxnard. A copy of this Mitigated Negative Declaration is included with the staff report for LAFCO 05-19 Ventura County Service Area No. 34 Formation (Parcels A & B).

D. Commission Policies

The Commission has adopted various written policies as provided and required by State law. These policies are consolidated in the Commissioner's Handbook. Several of the Commission's written policies relate to out of area service agreements.

Section 5.1.4 Determination of No Other Service Provider: This policy requires that LAFCO determine that no other public agency can provide the same service at the same level of service. In this case the Agreement provides the only feasible means for unincorporated areas in the Oxnard Forebay south of the Santa Clara River to meet the Regional Water Quality Control Board's mandate that no individual septic system discharges occur in the Forebay after January 1, 2008. The City of Oxnard has the only wastewater collection, treatment and disposal system capable of handling the wastewater flows from the sanitary sewer collection system being installed by the County to service the El Rio, Strickland Acres and adjoining developed unincorporated areas in the Oxnard Forebay. Because property owners and residents of these unincorporated areas do not support annexation to the City of Oxnard, annexation of this area that is entirely within the City of Oxnard's sphere of influence is not considered a feasible option at this time. Thus, the Agreement provides for the City of Oxnard to accept, treat and dispose of the wastewater flows from the El Rio area as set forth in the Agreement.

Section 5.1.5 Agriculture and Open Space Preservation: The area covered by the Agreement is almost fully developed. None of the affected territory is considered agriculture or open space. There will be no impacts on agriculture or open space lands resulting from the Agreement.

Section 5.1.6 Additional Factors For Approving Agreements: This policy states:

“In addition to the factors required by law and other factors required by these policies, in order to approve out of agency service agreements LAFCO must also make favorable determinations regarding one or more of the following additional factors:

- i. Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries.
- ii. Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on applicable general and specific plans, these policies, and other entitlements for use.
- iii. Emergency or health related conditions require prompt action versus waiting for the processing of a proposal for a change of organization or reorganization.”

It is recommended that the Commission determine that health related conditions require prompt action and that an out of area service agreement is necessary because annexation is not feasible given the opposition of property owners and residents in the unincorporated areas to be served by the sewer system.

Section 5.1.7 Agreements Consenting To Annex: This policy states:

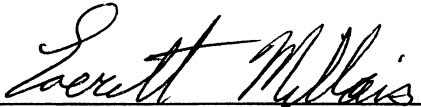
“Whenever the affected territory may ultimately be annexed to the service agency, a standard condition of approval for an out of agency service agreement shall be the recordation of an agreement by the landowner consenting to annex the territory. Said agreement shall be binding on future owners of the property.”

It is recommended that the Commission waive this policy in this case. The Agreement does not contain any provisions that would require annexation and there are over 1,400 landowners affected by the Agreement. Separate agreements with each landowner requiring annexation at some future date that could be recorded for each property are not feasible. Further, as noted, property owners and registered voters in the area have consistently opposed annexation and it is probable that a majority of the landowners would not agree to the recordation of any agreement requiring annexation to the City of Oxnard.

ALTERNATIVE ACTIONS AVAILABLE:

- A. If the Commission, following the public hearing and the review of the materials submitted, determines that further information is necessary, a motion to continue action should state specifically the type of information desired and specify a date certain for further consideration.
- B. If the Commission, following the public hearing and the review of the materials submitted, determines that the Agreement should be amended or modified, a motion to approve should specify any amendments or modifications as terms and conditions.
- C. If the Commission, following the public hearing and review of materials submitted wishes to not approve the Agreement a motion to deny should include certification that the Commission has reviewed and considered the information contained in the CEQA Mitigated Negative Declaration and include the adoption of this Report and all referenced materials as part of the public record.

PREPARED FOR THE COMMISSION BY:


Everett Millais, Executive Officer

Attachments

- 1. Government Code Section 56133.
- 2. LAFCO Resolution 05-20, including as Exhibit A, the Agreement For Sewer Service in El Rio Between the County of Ventura and the City of Oxnard.

Attachment 1

CALIFORNIA GOVERNMENT CODE SECTION 56133 **(RE: LAFCO requirements for service extensions without annexation)** **As of January 1, 2005**

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.

(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:

(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2000. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

ATTACHMENT 2

LAFCO 05-20

RESOLUTION OF THE VENTURA LOCAL AGENCY FORMATION COMMISSION MAKING DETERMINATIONS AND APPROVING AN OUT OF AGENCY SERVICE AGREEMENT FOR EL RIO SEWER SERVICE – COUNTY OF VENTURA/CITY OF OXNARD

WHEREAS, the State Regional Water Quality Control Board has determined that the groundwater in the Oxnard Forebay is being contaminated by pathogens and nitrogen compounds due to the on-going use of septic systems and has adopted a resolution that prohibits the discharge from septic systems on lots less than five acres in areas within the Oxnard Forebay, effective January 1, 2008; and

WHEREAS, the County of Ventura in 2001 prepared the El Rio Area Sewer Collection and Disposal System Project Feasibility Report ("Report") that concluded that the most feasible and preferred project is a gravity sewer collection system connected to the City of Oxnard's wastewater collection and treatment system; and

WHEREAS, the El Rio area addressed in the Report is unincorporated area within the City of Oxnard's sphere of influence; and

WHEREAS, annexation of the El Rio area into the City of Oxnard is considered unfeasible due to opposition by the property owners and residents; and

WHEREAS, an Agreement for El Rio Sewer Service ("Agreement") was approved by the County of Ventura and the City of Oxnard in June 2005; and

WHEREAS, pursuant to Government Code Section 56133 LAFCO must authorize agreements for extended services outside the jurisdictional boundaries of the agency providing the services; and

WHEREAS, the County has requested the Ventura LAFCO to approve the Agreement consistent with Government Code Section 56133; and

WHEREAS, at the times and in the manner required by law, the Executive Officer gave notice of action on the Agreement by the Commission; and

WHEREAS, the Commission duly considered all factors relating to the proposal as required by law on October 19, 2005; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony for and against the proposal including, but not limited to, the LAFCO Executive Officer's Staff Report and recommendations, the environmental document and findings, and applicable local plans and policies; and

WHEREAS, the Ventura Local Agency Formation Commission finds the Agreement to be in the best interest of the County of Ventura and the organization of local governmental agencies within Ventura County.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Ventura Local Agency Formation Commission as follows:

- (1) The LAFCO Executive Officer's Staff Report and recommendation for approval of the Agreement dated October 19, 2005 is adopted.
- (2) The Agreement for Sewer Service in El Rio Between the County of Ventura and the City of Oxnard, as attached hereto as Exhibit A and made a part hereof, is hereby approved.
- (3) The subject proposal is assigned the following distinctive short form designation: LAFCO 05-20 Out of Area Service Agreement for El Rio Sewer Service – County of Ventura/City of Oxnard.
- (4) Because of opposition to annexation to the City of Oxnard by property owners and residents in the area covered by the Agreement herein approved, the Commission determines that no existing agency can feasibly provide the needed services in a more efficient and accountable manner, and that no public agency other than the City of Oxnard can provide wastewater treatment and disposal services at the same level of service.
- (5) The Commission hereby determines, consistent with the policies contained in Section 5.1.6 of the Commissioner's Handbook, that health related conditions require prompt action in order for the sanitary sewer collection system envisioned by the Agreement herein approved to be constructed.
- (6) Because of the number of property owners in the area covered by the Agreement herein approved, and due to opposition by these property owners to consent to annexation to the City of Oxnard, the Commission hereby waives the application of Section 5.1.7 of the Commissioner's Handbook requiring that out of agency service agreements be conditioned on the recordation of an agreement by landowners consenting to annex.
- (7) The Commission has reviewed and considered the information contained in the Mitigated Negative Declaration adopted by the County of Ventura as

lead agency, and adopts the lead agency's Findings and Mitigation Measures.

- (8) The Commission determines that there are not any feasible alternative mitigation measures or feasible new mitigation measures, within the powers and authorities of LAFCO, which would substantially lessen or avoid any significant effect on the environment. [CEQA Guidelines §15096(g)]
- (9) The Commission directs staff to file a Notice of Determination in the same manner as a lead agency under CEQA Guidelines §15075 and §15096(i).
- (10) The Commission hereby authorizes the Executive Officer to review and provide written authorization for amendments to the agreement herein approved that may include making Ventura County Service Area No. 34 a party to the agreement and amendments that may include service to additional territory based on existing or impending treats to the public health or safety of the residents of the additional territory.

This resolution was adopted on October 19, 2005.

AYES:

NOES:

ABSTAINS:

Dated: _____
Chair, Ventura Local Agency Formation Commission

Attachment: Exhibit A

Copies: Clerk of the Board of Supervisors, Ventura County
Ventura County Assessor
Ventura County Auditor
Ventura County Water & Wastewater Department
Ventura County Surveyor
Ventura County Planning
City of Oxnard
United Water Conservation District
Calleguas Municipal Water District

**AGREEMENT FOR SEWER SERVICE IN EL RIO
BETWEEN THE COUNTY OF VENTURA AND
THE CITY OF OXNARD**

This Agreement for Sewer Service in El Rio is entered into this 21st day of June, 2005 (herein referred to as the "Agreement Date"), by and between the County of Ventura, a political subdivision of the State of California ("COUNTY"), and the City of Oxnard, a municipal corporation ("CITY").

WHEREAS, both COUNTY and CITY have the authority to construct, operate and maintain wastewater collection, treatment and disposal systems; and

WHEREAS, the El Rio area is an approximate 1.24 square mile unincorporated area of COUNTY, located adjacent to CITY (shown on Exhibit "A" as Proposed County Service Area No. 34) and overlays the Oxnard Plain Forebay Basin (Basin); and

WHEREAS, the Basin serves as the primary area of recharge to over 11 million acre-feet of groundwater beneath the Oxnard Plain; and

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (RWQCB) has determined that approximately 1,600 septic systems within the El Rio area contribute to the contamination of the Basin with pathogens and unsafe levels of nitrates; and

WHEREAS, in response to said contamination, the RWQCB amended the Water Quality Control Plan for the Los Angeles Region, pursuant to Section 13280 of the California Water Code, on August 12, 1999 to prohibit any discharge from septic systems within the Basin by January 1, 2008; and

WHEREAS, in response to the RWQCB prohibition, COUNTY, on behalf of El Rio residents, financed the preparation of the El Rio Area Sewer Collection and Disposal System Project Feasibility Report (Report) and an environmental document, pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Report, dated April 2001, approved by the State Water Resources Control Board (SWRCB) on June 21, 2001, concluded that the most feasible and preferred project is a gravity sewer collection system and a connection to CITY for treatment; and

WHEREAS, the year 2004 cost of the preferred project, including connection fees, was estimated to be \$30.0 million; and

WHEREAS, COUNTY has applied for and received federal and State grant funds for project design; and

WHEREAS, project design (Exhibit "B" - Proposed El Rio Sewer System) is substantially complete and the first phase of construction is expected to be completed by the end of year 2005, and the last

phase of construction, provided funding is available, is expected to be complete by January 1, 2008; and

WHEREAS, the El Rio area is located within CITY's Sphere of Influence and the projected wastewater flows from the El Rio area have been included in CITY's Master Plan Sewer Improvements; and

WHEREAS, CITY is currently making capacity improvements to its sewer conveyance system in anticipation of the El Rio Sewer Project as well as the recently CITY approved RiverPark Development; and

WHEREAS, CITY capacity improvements are scheduled to be completed by the end of 2005; and

WHEREAS, COUNTY wants CITY to provide sewer service outside the boundaries of CITY for residents of El Rio; and

WHEREAS, COUNTY desires to discharge wastewater from the El Rio area into CITY's sewerage system for conveyance, treatment and disposal by CITY; and

WHEREAS, COUNTY is willing to pay the charges for sewer service to be provided by CITY; and

WHEREAS, CITY is willing to provide sewer service outside the boundaries of CITY in cooperation with COUNTY as set forth herein; and

WHEREAS, the purpose of this Agreement is to provide the maximum regional public benefit from the use of CITY's wastewater treatment plant by permitting COUNTY to pay for the discharge of wastewater on the terms and conditions stated herein from the El Rio area to CITY's sewerage system for the term of this Agreement, and to provide the terms, conditions and compensation to CITY for conveyance, treatment and disposal of wastewater originating from the El Rio area; and

WHEREAS, COUNTY and CITY desire to avail themselves of all the provisions of law applicable to this Agreement and desire to jointly exercise their own powers as provided by law; and

NOW, THEREFORE, COUNTY and CITY agree as follows:

1. Subject to all of the conditions, limitations, restrictions, terms and provisions contained in this Agreement, and COUNTY's faithful compliance with and performance of same, this Agreement shall be in effect until both COUNTY and CITY mutually agree to terminate this Agreement, or as stipulated further in this Agreement.
2. COUNTY shall have the right for the term of this Agreement to connect a wastewater conveyance system from the El Rio area to CITY's sewerage system at a location shown on Exhibit "B" (Point of Connection to the City of Oxnard), attached hereto and incorporated in full herein by this reference, and to discharge into CITY's sewerage system the wastewater generated within the El Rio area, which is shown as "Proposed County Service Area No. 34"

on Exhibit "A", attached hereto and incorporated in full herein by this reference. CITY agrees to accept, treat and dispose of this wastewater on the terms and conditions set forth herein. COUNTY agrees there shall be no expansion of the El Rio area (Proposed County Service Area No. 34 shown on Exhibit A) without the specific written approval of the CITY and the Ventura County Local Agency Formation Commission (LAFCO).

3. Upon execution of this Agreement by both parties, COUNTY will make application with LAFCO for approval of this Agreement pursuant to California Government Code Section 56133. COUNTY will pay all filing and other costs associated with the review and consideration of this Agreement by LAFCO. This Agreement shall not become effective until and unless the Agreement is approved by LAFCO.
4. The right granted to COUNTY hereunder is a right to discharge wastewater from the El Rio area to CITY's sewerage system in a manner compliant with City's code concerning such discharge with a concurrent obligation on the part of CITY to receive, accept, convey, provide treatment and dispose of all such wastewater under and pursuant to its standard operating procedures. COUNTY shall not by reason of ownership of such right to discharge be deemed to have or acquire any ownership in CITY's sewerage system.
5. COUNTY shall make provisions for its conveyance system to bypass CITY Pump Stations Nos. 22 and 25, and shall construct, install, operate, and maintain sewer lines necessary for collection and delivery of wastewater which presently passes through these pump stations to CITY's sewerage system (approximately as shown on Exhibit B). CITY shall have the right to review all plans for the COUNTY system to assure the facilities are designed and constructed so as to comply with City standards and this Agreement. CITY shall have the right to inspect the system during construction and upon completion. Upon satisfactory completion of the system and when the system is ready to accept wastewater flow, CITY will abandon Pump Station Nos. 22 and 25.
6. CITY agrees to charge COUNTY a Sewer Connection Fee (SCF) of \$3,539 per residential parcel for all parcels having existing septic systems as of the Agreement Date. For all other El Rio residential, commercial, industrial, institutional, and other development, the SCF shall be based on prevailing CITY SCF at the time connection is sought. CITY shall determine the applicable SCF for commercial, industrial, institutional, residential and other future developments. All discharges from all properties within El Rio shall be in accordance with provisions of Chapter 25 of the Oxnard City Code. Commencing six months from the date that the first property is connected to the system, and thereafter every six months, City may invoice County for connection fees. Within 30 days of receipt of an invoice, County shall pay the invoice. Failure to timely pay any such invoice shall be a default under this Agreement.

Upon satisfactory completion by COUNTY of the sewer lines designed to eliminate the need for Pump Stations 22 and 25, CITY shall credit COUNTY toward the SCF in the amount of \$423,443 (the calculated proportional cost of the sewer collection system from the lift stations to the point of connection to the CITY system).

7. In recognition of the fact that CITY has no obligation to serve areas outside CITY boundaries and, in consideration thereof, COUNTY agrees to serve as the agency responsible for payment of charges described herein. COUNTY shall pay two times a year, in January and May, after receipt of an invoice, on behalf of the users within El Rio, and irrespective of COUNTY's ability to collect same, sewer service charges per CITY's invoice, including interest and late penalties, at the rate of wastewater discharged measured as provided for in Paragraph 14 hereof. The sewer service charge shall be the sum of the following charges:
- a. The then existing fee based upon the Regional Treatment and Disposal Facility User Charge in accordance with CITY Ordinance No. 2632, as may be amended from time to time; and
 - b. An extraterritorial charge of \$761.90 per million gallons of discharge into CITY'S sewer system for COUNTY'S use of the CITY'S right-of-way of the sewer collection system. The \$761.90 charge shall be adjusted on the fourth anniversary of the Agreement Date and thereafter every two years. The adjustment shall be proportional to the change in the Los Angeles-Riverside-Orange County (Base Period 1982-1984 = 100) Consumer Price Index from the date of the last adjustment.
8. The parties intend that the charges described in paragraph 7 be imposed only as flow generated by users located in the unincorporated COUNTY. Since the system will, as provided in paragraphs 5 and 6, carry some flow from CITY users, and since the total flow will be measured downstream from the point where CITY and COUNTY flows merge, the volume of wastewater generated within CITY limits (CITY Customers' Wastewater) shall be deducted from the total amount of flow measured and no service charge made therefor. The estimated volume of CITY customers' wastewater is 270,000 gallons per day, based on pumping records for Pump Stations No. 22 and 25. Said volume will be adjusted based on new connections within CITY limits, as mutually agreed by CITY and COUNTY. In the event the parties cannot reach agreement, the parties will arbitrate the issue in Ventura County according to the rules of the American Arbitration Association.
9. The aforementioned CITY fee set forth in Paragraph 7a above may be increased or decreased from time-to-time by CITY pursuant to any general increase or decrease in the CITY's service charge based upon the "Regional Treatment and Disposal facility User Charge" pursuant to CITY Ordinance No. 2632, as may be amended from time to time.
10. CITY waives its right to charge any additional extraterritorial charge, over and above as set forth in paragraph 7 to COUNTY since COUNTY will be maintaining COUNTY facilities, CITY's future operational costs associated with Sewer Pump Stations No. 22 and 25 will be eliminated, and COUNTY will be bearing the cost of conveying CITY customers' wastewater through a portion of its system. COUNTY will maintain its facilities at least to generally accepted industry standards.
11. All wastewater discharged from the COUNTY system into CITY's sewerage system pursuant to this Agreement shall meet the standards established by CITY under applicable ordinances,

resolutions and RWQCB discharge permits (as may be amended from time to time) generally applicable to dischargers of waste into CITY's sewerage system.

12. COUNTY shall not permit El Rio users to cause or permit to be placed, thrown or deposited into COUNTY Facilities, any liquids or materials which interfere with or prevent the effective use or operation of CITY's sewerage system. CITY shall not cause or permit to be placed, thrown or deposited into CITY Customers' Wastewater any liquids or materials which interfere with or prevent the effective use or operation of COUNTY's sewerage system, or which prevent COUNTY from meeting its obligations under this Agreement.
13. COUNTY shall not cause, or allow users to cause, excessive inflow or infiltration of any surface or storm waters to be discharged into its sewerage system. CITY shall not cause, or allow users within CITY limits to cause, excessive inflow or infiltration of any surface, or storm waters to be added to CITY Customers' Wastewater. Storm waters may not be diverted into the CITY sewer system without prior approval from the CITY.
14. COUNTY shall pay for, install, operate, own, and maintain one in-line flow meter at a point designated by COUNTY, and approved by the City Manager or designee, capable of measuring all discharge of wastewater into CITY's sewerage system. If the meter fails or malfunctions, previous monthly readings will be used as a basis for estimating the current monthly reading for the purposes of calculating the monthly service charge. COUNTY will promptly repair the meter in any case of failure. COUNTY shall take and submit readings monthly to the CITY for the purposes of determining service charges. COUNTY agrees to make the metering facility accessible to CITY at any reasonable time for the purposes of inspection, testing and verification of meter readings.
15. COUNTY shall pay for, install, operate, own, and maintain equipment for sampling which will monitor on a 24-hour basis and produce a daily composite for testing for BOD and suspended solids at a point designated by COUNTY and approved by the City Manager or designee. The results of three consecutive daily composite samples per quarter shall be submitted by COUNTY to CITY for billing purposes. COUNTY agrees to make sampling facilities accessible to CITY at any reasonable time for the purposes of inspection, testing and verification of samplings. COUNTY may from time to time perform BOD and suspended solids testing of CITY Customers' Wastewater to insure compliance with paragraph 12 hereof. COUNTY shall not be liable for failure of wastewater discharged into CITY's sewerage system to meet the requirements of paragraph 12 hereof to the extent such failure is proximately caused by CITY Customers' Wastewater.
16. All measurements, tests and analysis hereunder of the quality, characteristics and quantity of waters and wastes, and the results thereof shall be made and determined in accordance with the latest edition of "Standard Method for Examination of Water and Wastewater", published jointly by American Water Works Association, American Public Health Association, and Water Pollution Control Federation or if such publication ceases to exist, under the successor publication generally recognized as then existing industry standard.

17. COUNTY agrees to make all books and records pertaining to COUNTY Facilities, including measuring devices, accessible to CITY at any reasonable time for the purpose of inspection.
18. COUNTY and CITY agree that the sewer connection fee set forth in paragraph 6 of this Agreement is not a tax or assessment and, further, that the sewer service charges billed to COUNTY by CITY are service charges and not taxes nor assessments.
19. Neither COUNTY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
20. COUNTY and CITY agree that pursuant to Government Code Section 895.4, CITY shall fully indemnify, defend and hold COUNTY harmless from any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.
21. Neither CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by COUNTY under this Agreement or in connection with any work, authority or jurisdiction not delegated to CITY under this Agreement.
22. COUNTY and CITY agree that, pursuant to Government Code Section 895.4, COUNTY shall fully indemnify, defend and hold CITY harmless from any damage or liability occurring by reason of anything done or omitted to be done by COUNTY under this Agreement or in connection with any work, authority or jurisdiction not delegated to CITY under this Agreement.
23. Any notice under or relating to this Agreement by either party to the other shall be given in writing either by personal delivery or by U.S. Mail, postage prepaid. Such notice shall be deemed received as of the date of actual receipt or five (5) days from the date of mailing, whichever is the earlier. Notices shall be delivered or addressed as set forth immediately hereafter, except that each party may change its address by written notice given in accordance with this paragraph.

CITY:

Wastewater Superintendent
City of Oxnard
6001 S. Perkins Road
Oxnard, CA 93030

COUNTY:

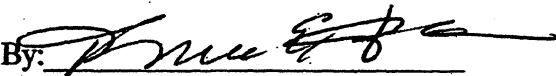
Director of Public Works
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

24. In the event that COUNTY shall at any time be in default in respect to any of the covenants, matters or things to be kept, done or performed hereunder, including failure to appropriate funds for the services provided by CITY as set forth in this Agreement, then, and in that event, CITY may at its option declare this Agreement and all rights of COUNTY hereunder ended and terminated; provided, however, before any termination shall be declared hereunder by reason of default as aforesaid, CITY shall cause to be given to COUNTY a written notice specifying the particulars wherein COUNTY is in default and demanding performance in accordance with the terms of this Agreement. If, within thirty (30) days after such notice is given, COUNTY shall have fully complied therewith, or in good faith shall have commenced the work necessary to comply therewith and henceforth shall have diligently prosecuted such work to completion within a reasonable time thereafter, no termination by reason of breach shall be declared hereunder; but, in the event of the failure of COUNTY to comply with such notice, CITY may then declare and effect a termination by reason of the default therein specified.
25. The CITY may suspend and be excused from performance of this Agreement in the event that performance is prevented or made substantially impracticable by a cause or causes beyond the reasonable control of the CITY. Such causes shall include, but not be limited to, acts of God, acts of war, riot, fire, explosion, accident, flood, or sabotage, government laws, regulations, requirements, orders, or actions, national defense requirements, injunctions or restraining orders.
26. The wastewater discharged by COUNTY into the CITY sewerage system will conform to all federal, State, COUNTY and CITY laws, regulations and orders relating to the discharge of wastewater into sewerage systems. COUNTY will notify CITY of any hazards or risks known to COUNTY regarding the handling, transportation, storage, or disposal of COUNTY's wastewater.
27. COUNTY agrees that this Agreement contemplates that the CITY's sewerage system shall accept wastewater only from the El Rio area. Therefore, assignments of any or all rights, duties, or obligations of COUNTY under this Agreement shall be permitted only with the express written consent of the City Manager or designee, which consent may be withheld for any reason.
28. CITY and COUNTY agree that the construction and interpretation of this Agreement and rights and duties of the CITY and COUNTY hereunder shall be governed by the laws of the State of California.
29. CITY and COUNTY agree that the invalidity in whole or in part of any provision of the Agreement shall not void or affect the validity of any other provision.
30. CITY and COUNTY agree that no waiver or breach of any provision of this Agreement by either CITY or COUNTY shall constitute a waiver or any other breach of the same provision or any other provision of this Agreement. Failure of either CITY or COUNTY to enforce at

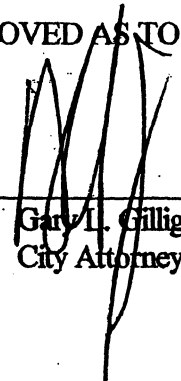
any time, or from time to time, any provision of the Agreement, shall not be construed as a waiver of such provision or breach.

31. CITY and COUNTY agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.
32. COUNTY and CITY agree that the site of any hearing or action, whether arbitration, judicial, or non-judicial, of whatever nature or kind regarding this Agreement shall be conducted in the County of Santa Barbara, State of California.
33. CITY and COUNTY agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein, and supersedes all prior communications, agreements and promises either oral or written.
34. This Agreement shall terminate if and when City annexes the El Rio area described herein into the City.

CITY OF OXNARD


By: 
Dr. Thomas E. Holden, Mayor

APPROVED AS TO FORM:



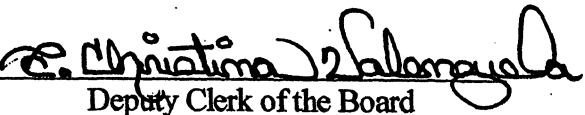
Gary L. Gillig
City Attorney

COUNTY

By: 
Kathy Long, Chair, Board of Supervisors

ATTEST:

JOHN F. JOHNSTON, Clerk of the
Board of Supervisors, County of Ventura,
State of California

By: 
Deputy Clerk of the Board



[illegible]

EXHIBIT B PROPOSED EL RIO SEWER SYSTEM POINT OF CONNECTION TO THE CITY OF OXNARD

